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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. APHIS-2011-0074]

Karnal Bunt; Regulated Areas in California

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the Karnal bunt regulations to make changes to the list of areas or fields regulated because of Karnal bunt, a fungal disease of wheat. Specifically, we are removing areas and fields in Riverside County, CA, from the list of regulated areas based on our determination that those fields or areas meet our criteria for release from regulation. This action is necessary to relieve restrictions on certain areas that are no longer necessary.

DATES: This interim rule is effective [Insert date of publication in the Federal Register]. We will consider all comments that we receive on or before [Insert date 60 days after date of publication in the Federal Register].

ADDRESSES: You may submit comments by either of the following methods:

- Federal eRulemaking Portal: Go to <http://www.regulations.gov/#!documentDetail;D=APHIS-2011-0074-0001>.
- Postal Mail/Commercial Delivery: Send your comment to Docket No. APHIS-2011-0074, Regulatory Analysis and Development, PPD, APHIS, Station 3A-03.8, 4700 River Road Unit 118, Riverdale, MD 20737-1238.

Supporting documents and any comments we receive on this docket may be viewed at <http://www.regulations.gov/#!docketDetail;D=APHIS-2011-0074> or in our reading room, which is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690-2817 before coming.

FOR FURTHER INFORMATION CONTACT: Ms. Lynn Evans-Goldner, Karnal Bunt Program Manager, Forest Pest and Plant Pathogen Programs, EDP, PPQ, APHIS, 4700 River Road Unit 26, Riverdale, MD 20737-1236; (301) 734-7228.

SUPPLEMENTARY INFORMATION:

Background

Karnal bunt is a fungal disease of wheat (*Triticum aestivum* L.), durum wheat (*Triticum durum* L.), and triticale (*Triticum aestivum* L. x *Secale cereal* L.), a hybrid of wheat and rye. Karnal bunt is caused by the fungus *Tilletia indica* (Mitra) Mundkur and is spread primarily through the planting of infected seed followed by very specific environmental conditions matched during specific stages of wheat growth. Some countries in the international wheat market regulate Karnal bunt as a fungal disease requiring quarantine; therefore, without measures taken by the United States Department of Agriculture (USDA), Animal and Plant Health Inspection Service (APHIS), to prevent its spread, the presence of Karnal bunt in the United States could have significant consequences with regard to the export of wheat to international markets.

Upon detection of Karnal bunt in Arizona in March of 1996, Federal quarantine and emergency actions were imposed to prevent the interstate spread of the disease to other wheat-producing areas in the United States. The quarantine continues in effect, although it has since been modified, both in terms of its physical boundaries and in terms of its restrictions on the production and movement of regulated articles from regulated areas. The regulations regarding Karnal bunt are set forth in 7 CFR 301.89-1 through 301.89-16 (referred to below as the regulations). Articles regulated for Karnal bunt are listed in § 301.89-2. Conditions for determining whether an area is regulated for Karnal bunt are set forth in § 301.89-3.

Under the regulations in § 301.89-3(f), a field known to have been infected with Karnal bunt, as well as any noninfected acreage surrounding the field, will be released from regulation if:

- The field has been permanently removed from crop production; or
- The field is tilled at least once per year for a total of 5 years (the years need not be consecutive). After tilling, the field may be planted with a crop or left fallow. If the field is planted with a host crop, the harvested grain must test negative, through the absence of bunted kernels, for Karnal bunt.

In this interim rule, we are amending the list of quarantined areas in § 301.89-3(g) by removing areas in Riverside County, CA, from the list of regulated areas, based on our determination that these fields or areas are eligible for release from regulation under the criteria in § 301.89-3(f). Specifically, we are removing the remaining 17,827 acres from Riverside County, CA.

This action relieves restrictions on fields within those areas that are no longer warranted. We note that with the removal of those fields in Riverside County, there are no longer any areas within the State of California that are quarantined because of Karnal bunt.

Immediate Action

Immediate action is necessary to relieve restrictions on certain fields or areas that are no longer warranted. Under these circumstances, the Administrator has determined that prior notice and opportunity for public comment are contrary to the public interest and that there is good cause under 5 U.S.C. 553 for making this action effective less than 30 days after publication in the Federal Register.

We will consider comments we receive during the comment period for this interim rule (see DATES above). After the comment period closes, we will publish another document in the Federal Register. The document will include a discussion of any comments we receive and any amendments we are making to the rule.

Executive Order 12866 and Regulatory Flexibility Act

This interim rule is subject to Executive Order 12866. However, for this action, the Office of Management and Budget has waived its review under Executive Order 12866.

This rule amends the Karnal bunt regulations by removing certain areas in California from quarantine based on surveys that indicate these areas have met the criteria for release from regulation.

We have prepared an economic analysis for this interim rule. The analysis, which considers the number and types of entities that are likely to be affected by this action and the potential economic effects on those entities, provides the basis for the Administrator's determination that the rule will not have a significant economic impact on a substantial number

of small entities. The economic analysis may be viewed on the Regulations.gov Web site (see ADDRESSES above for instructions for accessing Regulations.gov). Copies of the economic analysis are also available from the person listed under FOR FURTHER INFORMATION CONTACT.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are in conflict with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This interim rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, we are amending 7 CFR part 301 as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

1. The authority citation for part 301 continues to read as follows:

Authority: 7 U.S.C. 7701-7772 and 7781-7786; 7 CFR 2.22, 2.80, and 371.3.

Section 301.75-15 issued under Sec. 204, Title II, Public Law 106-113, 113 Stat. 1501 A-293; sections 301.75-15 and 301.75-16 issued under Sec. 203, Title II, Public Law 106-224, 114 Stat. 400 (7 U.S.C. 1421 note).

2. In § 301.89-3, paragraph (g) is amended by removing the entry for California.

Done in Washington, DC, this 16th day of November 2011.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

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